IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 117 OF 2004

IN

SUMMARY SUIT NO. 637 OF 2003

Bhishan Bhasin .. Plaintiff

versus

AAR Tex(India) & ors. .. Defendants

...

Ms.Kavita S.Lalwani for the plaintiff.

Mr.R.T. Parekh for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 21st February 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. The plaintiff has filed this suit for recovery of the money due from the defendant allegedly on the bill of exchange dated 21st May 1999 drawn by the defendant no.1 firm and accepted by the defendant

no.2. By filing an affidavit in reply, the defendant no.2 who also happens to be a partner of defendant no.1 has denied that any bill of exchange was executed by the defendant no.1. He has also denied that the bill of exchange was ever accepted by him. He has denied receipt of any consideration and has denied both the signatures on the bill of exchange.

3. In the circumstances, the plaintiff would be required to prove at trial that the bill of exchange was drawn and accepted by the defendant nos.1 and 2 respectively. The facts alleged by the defendant, if proved would constitute a good defence. In the circumstances, it cannot be said that the defence raised by the defendant is sham and fictitious.

4. Hence, the defendants are granted unconditional leave to defend the suit. The suit shall stand to the list of commercial causes. The defendant to file written statement within a period of four weeks.

D.G. KARNIK, J